The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte KEVIN S. BARKER, JOHN E. DILLER, MARGARET M. HEDSTROM, CAROL J. PERSCHE, MOHAMAD R. SALAHSHOOR, and JAMES THORPE

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Appeal 2007-0475
Application 10/047,312
Technology Center 2100

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Decided: August 14, 2007

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Before KENNETH W. HAIRSTON, HOWARD B. BLANKENSHIP, and MAHSHID D. SAADAT, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1-25, the only claims pending in this application. We have jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

INTRODUCTION

The claims relate to packaging one or more interfaces between a generic management model and specific system consoles. Claim 1 is illustrative:

1. A method of packaging management data adapted to interoperate with one or more management consoles, said method comprising:

receiving one or more console identifiers, each of the console identifiers corresponding to one of the management consoles;

retrieving one or more plug-in code files, each of the plug-in code files derived from the management data and each adapted to interface with one of the management consoles;

retrieving one or more display panel files derived from the management data; and

writing the plug-in code files and the display panels to a distribution medium.

The Examiner relies on the following prior art references to show unpatentability:

Agnihotri   US 6,311,321 B1   Oct. 30, 2001

"Common Information Model (CIM) Specification", version 2.2, Distributed Management Task Force, Inc., June 14, 1999.

The rejections as presented by the Examiner are as follows:

1. Claims 1, 3-8, 10-15, 17-21, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Agnihotri.

2. Claims 2, 9, 16, and 22-24 are rejected under 35 U.S.C § 103(a) as unpatentable over Agnihotri and CIM.

OPINION

Section 102 rejection over Agnihotri

We will consider representative claims to the extent that claims are separately argued. We remind Appellants that mere repetition of claim language does not constitute an argument for separate patentability of the claim. *See* 37 C.F.R. § 41.37(c)(1)(vii). Moreover, reproduction of claim language coupled with an allegation of patentability does not demonstrate error in a rejection.

Agnihotri describes an In-Context Launch Wrapper (ICLW) module that provides a generic interface for automating integration of device management applications (applets) into existing Enterprise management consoles at a host system of a network. (Abstract.) Agnihotri Figure 2 depicts specific management consoles 300 through 330 and device management applets 100 through 130, each of which may be written for a specific console. ICLW module 210 obviates writing code that would otherwise be required for integrating a particular applet into a particular management console. Agnihotri col. 3, l. 21- col. 4, l. 31.

The Examiner reads instant claim 1 on the disclosure of Agnihotri (Answer 3-4). Appellants "fundamentally disagree" with the Examiner's equating the applet components with the claimed plug-in code files, but neglect to offer any basis for the belief. (Appeal Br. 9.) We find no error in the Examiner's reading, in view of the Specification and the disclosure of Agnihotri.

Appellants also submit that Aghihotri fails to disclose that the plug-in code files and display panel files are "derived from management data." (Appeal Br. 9-10.) The Examiner finds that any application written to

manage a device is necessarily "derived from management data" related to that device; else, the application would be unable to interface with the device to perform management functions. (Answer 13.) Appellants' response to the rationale for inherency is the observation that Agnihotri does not describe how the applets are created (Appeal Br. 9; Reply Br. 3), which does not show error in the finding of inherency.

Appellants also allege that the word "derived" relates to several non-trivial steps that are described in the Specification. (Reply Br. 2-3.) As the Examiner indicates, however, instant claim 1 does not recite, nor does it require, any of those steps. During patent prosecution, the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (en banc).

We are thus not persuaded of any error in the Examiner's finding of anticipation with respect to claim 1. Claims 8 and 15, not separately argued, fall with claim 1.

Appellants submit that Agnihotri fails to teach translation files "corresponding to at least one national language," as required by independent claim 25. (Appeal Br. 10-11.) Appellants rely on column 5, lines 43 through 51 of Agnihotri in support of the view that the word "language" as used in the reference refers to a programming language. (*Id.*) The Examiner relies on the same text in Agnihotri but asserts that the artisan

would understand the "language" to be a national language, as it relates to "console information" that supports the installation process. (Answer 14.)

What a reference teaches is a question of fact. *In re Baird*, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994); *In re Beattie*, 974 F.2d 1309, 1311, 24 USPQ2d 1040, 1041 (Fed. Cir. 1992). We consider the Examiner's finding of what Agnihotri teaches to be reasonable, and amply supported by the reference. We sustain the rejection of claim 25.

We sustain the rejection of claims 3, 10, and 17, as Appellants rely on the same argument as that in support of claim 25.

Instant claim 4 recites that each of the display panel files is adapted to operate with a plurality of the management consoles. Appellants contend that Agnihotri teaches separate display interfaces for use with various management consoles. Appellants refer to Figure 3 of the reference, and submit that the plurality of console install DLLs ("dynamics link libraries," according to Agnihotri column 4, lines 50 through 55) are each directed to a different management console. Consequently, the display panels are coded in separate DLLs and not "adapted to operate with a plurality of management consoles." (Appeal Br. 13.)

The Examiner responds that the DLLs represent an adaptation mechanism, or how a file is "adapted" to operate with a plurality of management consoles. The graphical representation of a particular applet (i.e., display panel file) is adapted to operate with a plurality of management consoles through operation of the DLLs. (Answer 4 and 15.)

We are not convinced of error in the Examiner's reading of the reference. We thus sustain the rejection of claim 4, and of claims 11 and 18 not separately argued.

With respect to the rejection of claim 5, Appellants argue that Agnihotri, at column 7, lines 3 through 8, simply teaches use of a module that translates console instructions from one console to another. (Appeal Br. 13-14.) We agree with the Examiner (Answer 4-5 and 15-16) that the COM objects described by the reference represent executable files that are "adapted to interface with the management console corresponding to the console identifier" within the meaning of claim 5. Further, the Examiner provides a reasonable explanation with respect to how the objects are generated and compiled consistent with the requirements of the claim. We are not persuaded of error in the rejection of claim 5. We sustain the rejection. Claims 12 and 19 fall with claim 5.

We sustain the rejection of claims 6, 7, 13, 14, 20, and 21. Appellants' arguments in support of the claims are based on display panel files that are separate and apart from plug-in code files. As we have indicated in relation to the rejection of claim 4, Appellants have offered a conclusory reading of Agnihotri that is contrary to the Examiner's findings. The reference, however, provides substantial support for the Examiner's position. Appellants' arguments have not demonstrated that the Examiner's alternative reading of the reference lacks adequate foundation. Absent evidence or convincing argument to the contrary, we conclude that the artisan would have understood that the "image file for graphical representation" of an applet to be installed (Agnihotri col. 5, ll. 1-18) falls within the meaning of a display panel file as claimed. The reference seems to be clear in describing a file for graphical representation of the particular applet on a selected console, such that a user can select the applet after installation to the particular console. *See, e.g.*, Agnihotri col. 16, ll. 1-7

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(device management applications may be launched from a graphic user interface). Moreover, contrary to Appellants' implication that "display files" are installed separately from "code files" (Appeal Br. 15), representative claim 6 does not require the feature of selective copying of one or another type of file.

Section 103 rejection over Agnihotri and CIM

We sustain the rejection of claims 2, 9, 16, and 22-24 under 35 U.S.C § 103(a) as unpatentable over Agnihotri and CIM. Appellants' arguments in response to the rejection rely on supposed error in findings we have considered in our review of the § 102 rejection.

CONCLUSION

In summary, the Examiner's rejection of claims 1 through 25 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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